

Item W05-02 Response Form

Title: Family Law: Ex Parte Request to Obtain Copy of Sealed Family Law Documents (approve form FL-317)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **only if modified**
- ☐ **Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT:

5:00 P.M Friday, February 4, 2005

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.

Title	Family Law: Ex Parte Request to Obtain Copy of Sealed Family Law Documents (approve form FL-317)
Summary	In response to urgency legislation, the Judicial Council, effective January 1, 2005, approved a number of changes to its family law forms to alert litigants to the opportunity to seal documents that contain locating or identifying information about their assets and debts. It also approved an optional form, <i>Ex Parte Application to Seal Financial Forms in Court File (Family Law)</i> (form FL-316). A number of commenters suggested that a form that would allow parties to obtain copies of documents in their case would be helpful. Proposed form FL-317, <i>Ex Parte Request to Obtain Copy of Sealed Family Law Documents</i> , is designed to meet that request.
Source	Family and Juvenile Law Advisory Committee Hon. Mary Ann Grilli and Hon. Susan D. Huguenor, Co-chairs
Staff	Bonnie Hough, 415-865-7668, bonnie.hough@jud.ca.gov
Discussion	<p>Assembly Bill 782 (Stats. 2004, ch. 45 [Kehoe]) was chaptered as urgency legislation on June 7, 2004. It added new Family Code sections 2024.5 and 2024.6. New Family Code section 2024.6(b) requires that the Judicial Council form used to declare the assets and liabilities of the parties in a proceeding for dissolution of marriage, nullity of marriage, or legal separation of the parties must require the party filing the form to state whether it contains identifying information on the assets and liabilities listed.</p> <p>At its October 15, 2004, meeting, the Judicial Council approved amendments to the forms used for this purpose: <i>Property Declaration (Family Law)</i> (form FL-160), <i>Income and Expense Declaration</i> (form FL-150), and <i>Financial Statement (Simplified)</i> (form FL-155). Amendments were also made to three other Judicial Council forms— <i>Judgment (Family Law)</i> (form FL-180)— <i>Property Order Attachment to Findings and Order After Hearing (Family Law)</i> (form FL-344), and <i>Property Order Attachment to Judgment (Family Law)</i> (form FL-345), that also may contain identifying information about or location of the assets and debts of a party. An additional question was included on those forms asking the person completing the form whether it contains identifying information about the assets and debts listed. It also provides a notice that if such information is listed, the document may be sealed in accordance with Family Code section 2024.6(a).</p> <p>That new code section provides that “[u]pon request by a party to a petition for dissolution of marriage, nullity of marriage, or legal separation, the court shall order a pleading that lists the parties’ financial assets and liabilities and provides the location or identifying information about those assets and</p>

liabilities sealed. The request may be made by ex parte application.” To assist parties to seal the affected documents, the council approved new optional form *Ex Parte Application to Seal Financial Forms in Court File (Family Law)* (form FL-316). This form is designed to state the basis for the application and list the specific forms to be sealed. It assists court clerks in locating the forms and makes it clear that the entire file is not to be sealed. It also helps to clarify that this procedure for sealing is one of the exceptions noted in rule 243.1(a)(2) of the California Rules of Court.

When the new and revised forms were circulated, a number of commenters suggested that a form be developed that would allow documents sealed under Family Code section 2024.6(a) to be unsealed. This is particularly of concern for self-represented litigants, who may lose documents and need a copy or who want to verify that the document filed with the court is the same as the document with which they were served.

In considering this request, the committee believes that many persons who would like a copy of a document do not actually want the file to be unsealed but, rather, just need a copy. To address this need, the committee has developed proposed form FL-317, *Ex Parte Request to Obtain Copy of Sealed Family Law Documents*. It would allow a party to obtain a copy of documents that have been sealed without unsealing the documents. The proposed form would also allow the local child support agency to obtain any necessary documents if child support has been assigned to it under Family Code section 17400. The form has been designed as an ex parte request, since the documents will remain sealed and the parties should already have seen a copy of the requested documents. The committee invites comment on the need for this form.

Persons or agencies that want the documents unsealed—and thus open for public inspection—may use the *Order to Show Cause* (form FL-300) or *Notice of Motion* (form FL-301) and an *Application for Order and Supporting Declaration* (form FL-310). When a requester checks the “other” box and explains the basis for the request, a noticed hearing will be set, allowing the requester to attempt to show good cause why the previously sealed documents should be unsealed and the parties to state their positions.

The proposed form is attached at page 3.

Attachment

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div>TELEPHONE NO. :</div> <div>FAX NO. (Optional):</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div>E-MAIL ADDRESS (Optional):</div> <div></div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div>ATTORNEY FOR (Name):</div> <div></div> </div>	FOR COURT USE ONLY <div style="font-size: 24pt; font-weight: bold; margin-top: 20px;">DRAFT 11</div> <div style="font-size: 24pt; font-weight: bold; margin-top: 5px;">12/06/04 xyz</div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
EX PARTE REQUEST TO OBTAIN COPY OF SEALED FAMILY LAW DOCUMENTS	CASE NUMBER:

1. Request for a copy of sealed documents.
- a. ☐ I am the petitioner or respondent in this action. I request a copy of the documents listed in item 3 and request that they remain sealed under Family Code section 2024.6.
- b. ☐ I am an agent of the local child support agency (LCSA), which has been asked to establish, modify, or enforce a support order on behalf of the ☐ petitioner ☐ respondent ☐ other (specify): . I request a copy of the documents listed in item 2, related to the parties' financial information and request that they remain sealed.
- If you are not a person listed above or if you want these documents unsealed, you must complete a *Notice of Motion* (form FL-301) and an *Application for Order and Supporting Declaration* (form FL-310) explaining your reasons for this request.

2. Documents I want: Date filed
- a.
- b.
- c.
- d.
- e.
- ☐ Continued on Attachment 2f.

3. I have given notice to the other party in this case. My proof of service of ex parte application is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 (TYPE OR PRINT NAME)

 (SIGNATURE OF PARTY)

ORDER

Upon reviewing this application and the listed documents, it appears that there is a good cause for the documents below to be photocopied for the requesting party but remain sealed. Therefore, following Family Code section 2024.6, it is ordered that the documents listed in ☐ 2a ☐ 2b ☐ 2c ☐ 2d ☐ 2e and the following documents in ☐ Attachment 2f (specify): be photocopied for the requesting party but remain sealed. The requestor must only use these documents in a legally authorized manner.

Date: _____

 JUDICIAL OFFICER

Assembly Bill No. 782

CHAPTER 45

An act to repeal and add Section 2024.5 of, and to add Section 2024.6 to, the Family Code, relating to court records, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 7, 2004. Filed with
Secretary of State June 7, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 782, Kehoe. Court records: family law.

Existing law generally recognizes court records as public records, unless a specific exception applies. Under existing law, one exception with respect to dissolution matters allows social security numbers of persons involved to be kept in the confidential portion of court files.

This bill would establish procedures for keeping the location or identifying information about the assets and liabilities of the parties in a dissolution matter sealed. The bill would require a related Judicial Council form to be revised no later than July 1, 2005, in accordance with those procedures and would make other related changes. The bill would also repeal the provision described above which allows social security numbers to be kept in a confidential portion of the court files. The bill would instead authorize a petitioner or respondent to redact social security numbers from pleadings, attachments, documents, or other material filed with the court, except as specified.

The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 2024.5 of the Family Code is repealed.

SEC. 2. Section 2024.5 is added to the Family Code, to read:

2024.5. (a) Except as provided in subdivision (b), the petitioner or respondent may redact any social security number from any pleading, attachment, document, or other written material filed with the court pursuant to a petition for dissolution of marriage, nullity of marriage, or legal separation. The Judicial Council form used to file such a petition, or a response to such a petition, shall contain a notice that the parties may redact any social security numbers from those pleadings, attachments, documents, or other material filed with the court.



(b) An abstract of support judgment, the form required pursuant to subdivision (b) of Section 4014, or any similar form created for the purpose of collecting child or spousal support payments may not be redacted pursuant to subdivision (a).

SEC. 3. Section 2024.6 is added to the Family Code, to read:

2024.6. (a) Upon request by a party to a petition for dissolution of marriage, nullity of marriage, or legal separation, the court shall order a pleading that lists the parties' financial assets and liabilities and provides the location or identifying information about those assets and liabilities sealed. The request may be made by ex parte application. Nothing sealed pursuant to this section may be unsealed except upon petition to the court and good cause shown.

(b) Commencing not later than July 1, 2005, the Judicial Council form used to declare assets and liabilities of the parties in a proceeding for dissolution of marriage, nullity of marriage, or legal separation of the parties shall require the party filing the form to state whether the declaration contains identifying information on the assets and liabilities listed therein. If the party making the request uses a pleading other than the Judicial Council form, the pleading shall exhibit a notice on the front page, in bold capital letters, that the pleading lists and identifies financial information and is therefore subject to this section.

(c) For purposes of this section, "pleading" means a document that sets forth or declares the parties' assets and liabilities, income and expenses, a marital settlement agreement that lists and identifies the parties' assets and liabilities, or any document filed with the court incidental to the declaration or agreement that lists and identifies financial information.

(e) The party making the request to seal a pleading pursuant to subdivision (a) shall serve a copy of the pleading on the other party to the proceeding and file a proof of service with the request to seal the pleading.

(f) Nothing in this section precludes a party to a proceeding described in this section from using any document or information contained in a sealed pleading in any manner that is not otherwise prohibited by law.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

It is necessary that this act take effect immediately as an urgency statute because the records that this act seeks to protect may disclose identifying information and location of assets and liabilities, thereby subjecting the affected parties and their children, as well as their assets



and liabilities, to criminal activity, violations of privacy, and other potential harm.

O

